

Express Mail Label No. EV676905541US  
U. S. Patent Application No. 10/664,581  
Amendment to Accompany Request for Continued Examination Dated April 21, 2006

**Remarks**

Claims 1-13, 16-20, and 22-23 stand finally rejected under *35 U.S.C. §103(a)* as being unpatentable over U. S. Patent No. 5,567,934 to Zheng et al. (“Zheng”) in view of U. S. Patent No. 4,488,679 to Bockholt et al. (“Bockholt”). Claims 14-15 and 21 stand rejected under *35 U.S.C. 103(a)* as being unpatentable over Zheng as modified by Buckholt and further in view of U. S. Patent No. 5,600,116 to Seo et al. (“Seo”). A Request for Continued Examination (“RCE”) is concurrently filed to remove the finality of the Office Action of January 3, 2006. *See MPEP §706.07(h)*

According to the *MPEP §2143*, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicants continue to maintain that the Examiner’s rejections of claims 1-23 do not establish *prima facie* obviousness and incorporate by reference the arguments made in the responses dated June 15, 2005 and October 17, 2005. Nevertheless, in that applicants are desirous of expediting an allowance, applicants’ amend the application in a manner designed to yield an expedited allowance.

In order to expedite an allowance, applicants’ amend claim 1 to recite the features originally recited in claim 6 with clarifying language clarifying that the sections are “mating” sections. Applicants also add new claims 24-51. New claim 24 is a rewrite of original claim 8 rewritten in independent form.

Regarding amended claim 1, claim 1 now is in a form wherein the art relied upon by the Examiner cannot reasonably be argued to teach or suggest the features of claim 1. With regard to the recited “sections” feature, the Examiner previously relied upon non-mating structure as evidence that the “sections” feature is shown in the prior art. The amendment reciting “mating” sections clarifies that amended claim 1 (previously claim 6) recites a combination of features not shown or suggested in the prior art.

Regarding claim 24, claim 24 recites the combination of features previously recited in original claim 8. In the Office action dated January 3, 2006, the Examiner rejected claim 8 under the following rationale: “Re claims 8-9 and 23: wherein the optical sensor configured to receive illumination from the at least one source of illumination for the purpose of confirming an illumination characteristic (such as an illumination intensity at a selected time) provided by the at least one source of illumination (col.6, lines 10+).” *January 3, 2006 Office Action, page 4.*

Applicants’ respectfully assert that they cannot find a teaching either disclosing or suggesting the particularly recited claimed feature of a structure “configured to receive illumination from the at least one source of illumination for the purpose of confirming an illumination characteristic provided by the at least one source of illumination” in the references section of the relied upon reference to Zheng. In order to establish *prima facie* obviousness the prior art must teach every feature recited in a claim. Applicants’ note that the Examiner has not shown and has not even alleged that Zheng has all of the features of original claim 8. Accordingly, the Examiner has not established *prima facie* obviousness as to original claim 8 and original claim 8 (now claim 24) is believed to be allowable over the prior art of record. If the Examiner wishes to sustain the rejection of claim 24, the Examiner is respectfully requested to point out where in column 6 of Zheng there is a teaching or suggestion of a structure “configured to receive illumination from the at least one source of illumination for the purpose of confirming an illumination characteristic provided by the at least one source of illumination.”

New claims 24-51 recite particular combination of features described throughout the specification. The amended claims and the new claims all are believed to be allowable in that they recite combinations of elements not shown or suggested in the prior art of record. Regarding new claims 24-51, new claims 24, 29, 36, 41, 46, and 48 are independent. New independent claims 24 and 29 recite, among other elements, features relating to the confirming of an illumination characteristic. New claim 36 recites, among other elements, features related to a structure configured to support one of a first imager or a second imager. Claims 41 and 46 recite, among other elements, features relating to a hollow chamber having replaceable sections. Claim 48, among other elements, recites features relating to an analysis module in wireless communication with an imager.

While the applicants herein may have highlighted a particular claim element of a claim for purposes of demonstrating an insufficiency of an examination on the part of an Examiner, the applicants' highlighting of a particular claim element for such purpose should not be taken to indicate that the applicants have taken the position that a particular claim element constitutes the sole basis for patentability out of the context of the various combinations of elements of the claim or claims in which it is present.

None of the amendments presented herein contain new matter.

Accordingly, in view of the above amendments and remarks, applicants believe all of the claims of the present application to be in condition for allowance and respectfully request reconsideration and passage to allowance of the application.

If the Examiner believes that contact with applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call applicants' representative at the phone number listed below.

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The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit Account No. 50-0289.

Respectfully submitted,

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Date: April 21, 2006



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